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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,972	02/19/2004	Glen Johnson	14298.1USUI	1050
23552	7590	04/03/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			BATSON, VICTOR D	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/781,972	JOHNSON, GLEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Victor Batson	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11, 15-25 and 29-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 15-25 and 29-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "54" & "56" have been used to designate both arrows and a c-channel & cavity (fig. 6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. The formal line drawings were received on 1/12/06. Drawings 1-5,7-17 are approved.

### ***Specification***

The disclosure is objected to because of the following informalities: In the specification (see page 4) applicant uses reference numbers 54 & 56 to represent arrows, a c-channel & a cavity. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8,11,15,16,18-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The added limitations regarding the first channel member and flanges was not described in the specification to enable one of ordinary skill in the art to make and/or use the invention as claimed and is therefore considered new matter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourgeois, Jr. (4,655,297) in view of Hermonson (6,283,225).

Bourgeois, Jr. discloses a grading implement including a main body (considered the frame including members 54,30,32,34,36), a front plow blade 70, end plates 12 & 14, and a cavity located beneath the main body and positioned behind the front plow blade. Bourgeois, Jr. further discloses an adapter (considered the hitch). Bourgeois, Jr. however lacks using hollow extensions sized to receive tines.

Hermanson teaches that it is known in the art for a grading blade to include hollow extensions sized to receive tines to allow the blade to be used with a vehicle such as a skid steer loader (figure 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the grading implement of Bourgeois, Jr. with hollow extensions so that the grading implement could be used with various vehicles such as a skid steer vehicle as taught by Hermanson.

Concerning the claimed ranges, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the implement with the claimed ranges since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (see MPEP 2144.05).

Concerning connecting the main body to the connection arrangement by cotter pins, the examiner takes Official Notice that cotter pins are a known connection means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use cotter pins to connect the main body to the connection arrangement since the examiner takes Official Notice of the equivalence of cotter pins for their use as a connection means and the selection of any known equivalents to connect structures together would be within the level of ordinary skill in the art.

***Allowable Subject Matter***

Claim 17 is allowed.

### ***Response to Arguments***

Applicant's arguments regarding claims 29-39, filed 1/12/06 have been fully considered but they are not persuasive. Applicant's arguments regarding a "claw blade" are more limiting than the claims themselves as a claw blade has not been claimed. Applicant argues that the combination set forth in the rejection would not be obvious since the grader disclosed in the '297 patent is not intended to be pushed. The examiner does not agree. It is the examiner's position that Bourgeois, Jr. discloses a grader/scrapper blade, and that it is also known in the excavation and construction arts to push grader/scrapper blades. Therefore, it would have been obvious to replace the three point hitch attachment structure (normally used with a tractor type vehicle), with an attachment structure similar to that of Hermonson, so that the scraper blade could be used with a vehicle such as a skid steer loader. The examiner does not agree that because Bourgeois, Jr. discloses pulling the scraper blade, one of ordinary skill in the art would not contemplate pushing the scraper blade of Bourgeois, Jr.. Applicant's arguments regarding the size limitations providing significant operating advantages designed to address problems not recognized by the prior art, are not persuasive as applicant has not specified the advantages or problems suggested.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 31, 2006



Victor Batson  
Primary Examiner  
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